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# Advocate of Peace

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## ADVOCATE OF PEACE

Edited by ARTHUR DEERIN CALL

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*It being impracticable to express in these columns the divergent views of the thousands of members of the American Peace Society, full responsibility for the utterances of this magazine is assumed by the Editor.*

## THIS SOCIETY

EVERY FRIEND of the American Peace Society will wish to be reminded that the Carnegie Endowment for International Peace has repeated its offer to give to the American Peace Society a sum equal to its income from other sources up to and including \$15,000. This simply means that every dollar contributed to the service of the American Peace Society, up to \$15,000, will be duplicated by the Carnegie Endowment for International Peace.

Presented with this situation during our last fiscal year, friends met the situation and oversubscribed the amount before the expiration of the time.

We have no doubt they will wish to do the same now.

UNDER DATE of October 8, the American Peace Society wrote to the Secretary of State as follows:

The Honorable THE SECRETARY OF STATE,

Washington, D. C.

DEAR SIR: The American Peace Society gladly places its library, archives, magazine, and officers at the service of the coming Conference for the Reduction of Armaments.

Please feel at liberty to indicate any direction our efforts may take to the promotion of the high matters upon which the conference is about to enter.

## PERMANENT COURT OF INTERNATIONAL JUSTICE, A FACT

A PERMANENT International Court of Justice is an established fact. When it is recalled that we already have a Court of Arbitration, organized by the conventions of The Hague of 1899 and 1907, and that we also have special tribunals of arbitration to which States are always at liberty to submit their disputes for settlement, every believer in the principle that issues between States too difficult for settlement by means of diplomacy and friendly composition should be settled according to the principles of arbitration or of judicial settlement has the right to feel profoundly encouraged.

The American Peace Society is thus encouraged. Among the classic proposals for the promotion of international peace, Henry IV, Crucé, Penn, Saint-Pierre, and Rousseau conceived that judicial functions should belong to an international legislative body which they proposed. It was William Ladd, founder of the American Peace Society, who, in his definitive plan of 1840 provided for a separate court, was the first to advance such a proposal. It is historically justifiable, therefore, to credit Mr. William Ladd with being the father of the Permanent International Court of Justice. In his famous "Essay on the Congress of Nations," setting forth the arguments for and the arguments against an international congress for the purpose of making international law, and an international court for the purpose of interpreting and applying such international law, Mr. Ladd's proposal became widely accepted. The American Peace Society may be pardoned, therefore, for calling attention once more to this significant contribution.

Referring to Mr. Ladd's proposal, Dr. James Brown Scott, himself the most consistent and effective among living workers in behalf of a Permanent Court of International Justice, truly and graciously said in 1916:

"Mr. Ladd cherished no illusions. He believed that his plan was practical, and believing, likewise, that it was wise and just, he felt that it could wait years, if need be, for its realization, and that repeated failures would not prevent ultimate triumph . . . when a court of nations composed of judges exists as a permanent institution before which nations appear as suitors, and when mankind, accustomed to these institutions, recognize their importance, the name of William Ladd will undoubtedly figure among the benefactors of his kind."

Dr. Scott's analysis has been justified by the facts. We now know that Mr. Ladd's proposal sprang from no

illusion. His was a practical plan. It was necessary to "wait years . . . for its realization," but the "repeated failures" have not prevented its "ultimate triumph." The Permanent Court of International Justice is the consummation of the aspirations of this worthy man. It requires no unusual insight or power of prophecy to foresee that William Ladd is destined more and more to "figure among the benefactors of his kind."

The American Peace Society has no disposition to claim for itself credit to which it is not entitled. The whole project is, however, distinctly American. Prior to the peace conference in Paris, initiative in behalf of a Permanent International Court of Justice had long been quite general in America. Beside the efforts of the American Peace Society, there were associated with the movement such persons as James Brown Scott, Elihu Root, Joseph H. Choate, Andrew D. White, David Jayne Hill, Robert Lansing, Theodore Roosevelt, some of whom were members of the American Peace Society. Indeed, article 14 of the Covenant of the League of Nations, the article which provided for the formulation and submission of plans for the establishment of the Permanent Court of International Justice, was incorporated in that document largely upon the initiative of two of the Americans just mentioned. Notwithstanding the fact that the United States has consistently refused to ratify the Treaty of Versailles, of which the Covenant of the League of Nations is a part, it was an American, Elihu Root, aided by James Brown Scott, who was the most conspicuous contributor to the "Statute" for the Permanent Court of International Justice now happily assured. John Bassett Moore, for many years one of America's most distinguished authorities on international law, is one of the eleven judges composing the court.

We have consistently opposed the League of Nations. We shall continue to advocate rather an international organization which the United States can consistently enter. But we would not belittle the services of the League of Nations in this important business. It has done its duty under the terms of article 14 of the Covenant with conspicuous intelligence. The Council submitted the matter, under date of February 13, 1920, to an international committee of jurists, calling attention to the fact that the court is the most essential part of the organization of the League of Nations; indeed, that "if it is established on sound and statesmanlike principles, it can contribute perhaps more than any other single institution to maintain the peace of the world and the supremacy of right amongst the nations." The committee of jurists submitted its project to the Council of the League of Nations. After certain modifications, the Council submitted it to the Assembly. With these modifications the plan now embodied in a "Statute" was

adopted. According to the provisions of the statute, the judges have been elected as follows: Rafael Altamira, Spain; Dionisio Anzilotti, Italy; Ruy Barbóza, Brazil; Antonio de Bustamante, Cuba; Viscount Finlay, Great Britain; Max Huber, Switzerland; B. C. J. Loder, Netherlands; John Bassett Moore, United States; Didrik Galtrup Gjedde Nyholm, Denmark; Yoruzo Oda, Japan; Charles André Weiss, France. The deputy judges elected were M. Beichmann, Norway; M. Negulesco, Rumania; M. Wang, China; M. Yovanovitch, Serb-Croat-Slovene State. Thus through the travail of years the court is born.

It would be difficult to overemphasize the importance of this court. It is to be open to members of the League and also to States mentioned in the annex to the Covenant, which includes the United States. It may be open to other States. The jurisdiction of the court will extend to all cases which parties may see fit to refer to it. It will be competent in issues relating to the interpretation of a treaty, to any question of international law, to the existence of any fact which, if established, would constitute the breach of an international obligation, to the nature or extent of the reparation to be made for the breach of an international obligation, and to any dispute as to the jurisdiction of the court itself. Contrary to the recommendations of the committee of jurists, the court has not been given compulsory jurisdiction; that is to say, no nation is obliged to appear before the court; and yet it is provided that the States may agree to grant this compulsory jurisdiction for such States as accept the obligation. Several States have already accepted this obligation. The others will follow. It is further provided that the judges shall, in their findings, apply international conventions establishing rules expressly recognized by the contesting States; international custom as evidence of a general practice accepted as law; the general principles of law recognized by civilized nations; and, so far as the parties in a given case are concerned, the court shall apply also judicial decisions and the teachings of the most qualified publicists of the interested nations as subsidiary means for the determination of rules of law. Furthermore, the court may decide a case *ex aequo et bono*, if the parties agree thereto.

Thus there has come into being, for the use of the nations, an instrument which can serve the nations as does our Supreme Court the States of our Union. This most important of all international facts will impress itself increasingly upon the consciousness of States—slowly, but, we have every reason for believing, surely and profoundly. In the long climb of civilization, justice has been found to be the supreme purpose of States. The law and the courts are the cities of refuge for the peoples. The establishment of this court is, therefore, the outstanding hope for the peace of the world.